

**Ver 5.0 After recording return to:**

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Space above this line for recorder's use only.

**ROCK RIDGE COVENANTS,  
CONDITIONS AND RESTRICTIONS**

This Rock Ridge Covenants, Conditions and Restrictions (“Declaration”) is made by 93 LLC (“Declarant” or “Company”) who owns the following real property subject to this Declaration:

South one-half of Northwest one-quarter, Section 35, Township 31 North, Range 22 West, P.M.M., City of Whitefish, Flathead County, Montana and more particularly described as:

Lots 1-22, Lots A-F and Open Space A-G as shown on the Plat of 93 LLC, File No. \_\_\_\_\_, recorded \_\_\_\_\_, 2021 at the Office of the Flathead County Clerk and Recorder.

**Article 1-Definitions**

**1.1. “Association”** means the Rock Ridge Homeowners' Association.

**1.2 “Covenants”** means the covenants, conditions, restrictions, obligations and responsibility set forth in this Declaration.

**1.3. “First Mortgage”** means a bona fide, first position mortgage, deed of trust or similar voluntary encumbrance on a Lot.

**1.4 “Lot” or “Lots”** means a tract of land labeled as Lots 1-22 (single family lots) or Lots A-F on the Plat and if Lots A-F are further divided, including but not limited into condominium units, then each new lot or condominium unit in Lots A-F.

**1.5 “Member”** means a member of the Rock Ridge Homeowners' Association.

**1.6 “Open Space”** means all real property (including improvements) labeled on the Plat as Open Space A, Open Space B, Open Space C, Open Space D, Open Space E, Open Space F and Open Space G.

**1.7 “Owner”** means the owner of record, whether one or more persons or entities, of fee simple title to a Lot, including contract sellers but not parties with only a security interest.

**1.8 “Period of Declarant Control”** means the period beginning when this Declaration is recorded and ending on the earlier of: (a) the date which is 20 years later; (b) the date on which the Declarant has sold all Lots; (c) the date on which Declarant has provided written notice to the Association that Declarant has terminated the Period of Declarant Control. After the termination of the Period of Declarant Control, Declarant, if still an Owner, continues to have a Member’s rights and duties.

**1.9 “Plat”** means the Plat of 93 LLC, File No. \_\_\_\_\_, recorded \_\_\_\_\_, 2021 at the Office of the Flathead County Clerk and Recorder.

**1.10 “Private Roads”** means streets or other rights-of-way on the Plat.

**1.11 “Property” or “Properties”** means the real property on the Plat.

**1.12 “Sewer Main Infrastructure”** means the sewer mains and related infrastructure that Declarant has installed and transferred to the ownership of the City of Whitefish.

**1.13 “Water Main Infrastructure”** means the water mains and related infrastructure that Declarant has installed and transferred to the ownership of the City of Whitefish.

## **Article 2-Purpose, Covenants and Conveyances**

**2.1 Purpose:** The purpose of this Declaration is to preserve the natural beauty and wildlife corridor of Rock Ridge’s surroundings, provide harmonious residential design, create the Association and set forth its rules and protect and enhance property values.

**2.2. Imposition of Covenants:** From the date of recording this Declaration forward, the Property will constitute a planned community known as Rock Ridge and be subject to the Covenants set forth here.

**2.3 Conveyances and Grants of Easements:** By separate deed, Declarant has conveyed to the Association all Open Space, easements and rights of way on the Plat.

## **Article 3-Association Membership and Voting Rights**

**3.1. Association Membership:** Each Owner is a Member. Membership is appurtenant to and may not be separated from Lot ownership. The Association shall have one class of voting membership.

**3.2 Voting Rights:** All Members are entitled to vote on Association matters on the basis

of one vote for each Lot owned. In addition to any votes as an Owner, Declarant holds an addition 16 votes by virtue of being Declarant. In its sole discretion, Declarant may relinquish some or all of these additional votes by giving written notice to the Association,

**3.3 Declarant's Creation of Association and Appointment of Directors:** Until the expiration of the Period of Declarant Control, Declarant, in its sole discretion, may act as the Association itself without creating the Association or may create the Association with Declarant holding the sole and exclusive power to appoint, remove and replace Association directors and officers.

**3.4 Non-Transfer of Membership:** An Owner may not transfer Owner's membership except upon the sale its Lot and then only to the Lot purchaser.

**3.5 Notice:** Each Lot Owner shall provide the Association with a mailing address, phone number and email address for purposes of notice under this Declaration. In the absence of providing this information, the Association may mail notice to the Lot Owner's address shown on the Montana Cadastral website. Email notice alone is not sufficient and shall be accompanied with mailed or hand-delivered notice. Notice is deemed given upon mailing or hand-delivery.

**3.6 Notification of Transfer and Fee:** An Owner shall notify the Association of a Lot ownership transfer and pay a transfer fee to the Association at closing equal to one quarter (25%) of the then annual assessment. This transfer fee shall not apply to a bona fide, secured lender taking ownership as a result of its security interest.

#### **Article 4-Association Powers and Duties**

**4.1 Association Management Duties:** The Association, through its Board of Directors, shall be responsible for the Association's administration and operation except for those duties reserved to Declarant or Members by this Declaration.

**4.2 Rules and Regulations:** The Association may adopt and amend rules and regulations governing the Properties and Rock Ridge as set forth in Article 9 below.

**4.3 Fines:** The Association may adopt and publish a schedule of fines for Covenant violations.

**4.4 Enforcement of Declaration:** Declarant and the Association have standing to enforce the provisions this Declaration, which includes the Development Rules and Design Review Guide set forth in Section 9 below. If the Association fails to take action after 30 days of a written request from an aggrieved Owner to the Association, the aggrieved Owner has standing too. Prior to initiating legal action, the initiating party shall provide 30 days written notice to the alleged offender to cure the violation. If the alleged offender fails to cure the violation within 30 days, the party giving notice may proceed with legal action to enforce the provision or, in its sole discretion, may

correct the violation at its expense and demand the alleged offender reimburse the party within 30 days after mailing a statement. If alleged offender fails to reimburse the party, the party may record a lien against the alleged offender's Lot and proceed with legal action to collect the money and foreclose the lien. No entry upon a Lot by the Association for purposes of enforcing these covenants shall be deemed a civil or criminal trespass.

**4.5 Non-Waiver:** A party's failure to enforce any provisions of this Declaration shall not be deemed a waiver of the right to do so later.

**4.6 Declarant has No Duty to Enforce:** Declarant shall not have the duty to take any affirmative action to enforce any provision of this Declaration nor shall it be subject to any liability for its failure to so act.

**4.7 Delegation by Association:** The Association may employ or contract for the services of a Manager to act for the Association. The Manager may be the Declarant or a person related to Declarant.

**4.8 Ownership of Real and Personal Property:** The Association may acquire, hold and dispose of personal and real property. The Association accepts all real or personal property, leasehold or other property interests within Rock Ridge as conveyed to the Association by Declarant.

**4.9 Private Road Open to Public:** The Private Roads are privately owned and maintained, but open to the public.

**4.10 Maintenance of Private Roads, Open Space and Storm Drainage System:** The Association shall be responsible for maintenance and upkeep of Private Roads, Open Space, walks and trails and street trees. It also shall maintain the drainage and storm water management facilities in conformity with the long term maintenance strategy in its operation and maintenance manual. The Association is responsible for snow removal on the Private Roads and eliminating noxious weeds in the areas it maintains.

**4.11 Insurance:** The Association shall purchase and maintain insurance with coverage, limits, deductibles and other terms as the Association determines.

**4.12 Books and Records:** The Association shall make available for inspection by Owners and Mortgagees, upon request, during normal business hours or under other reasonable circumstances, current copies of the Association's books, records and financial statements. The Association may charge a reasonable copying fee.

**4.13 Successor to Declarant:** The Association shall succeed to all of the rights, duties and responsibilities of Declarant under this Declaration upon termination of the Period of Declarant Control.

## **Section 5- Sewer Facilities**

**5.1 Sewer Facilities:** Each Lot shall have access to the Sewer Main Infrastructure owned by the City of Whitefish. The Lot Owner is responsible for all costs associated with hooking up to the Sewer Main Infrastructure and the cost to repair, maintenance or replace the infrastructure necessary to hook up to the Sewer Main Infrastructure. The Lot Owner shall pay directly to the City of Whitefish such amounts for sewer service, including monthly charges, hook-up fees and other charges as may be set from time to time by the City of Whitefish.

## **Section 6- Water Service**

**6.1 Water Service:** Each Lot shall have access to the Water Infrastructure owned by the City of Whitefish. The Lot Owner is responsible for all costs associated with hooking up to the Water Infrastructure and the cost to repair, maintenance or replace the infrastructure necessary to hook up to the Water Infrastructure. The Lot Owner shall pay the City of Whitefish such amounts for water service, including monthly charges, hook-up fees and other charges as may be set from time to time by the City of Whitefish.

**6.2. Water Meter:** Water usage shall be separately metered for each Lot. Each Owner shall be responsible for furnishing a water meter, purchased from the City of Whitefish, and for the installation, operation, repair, maintenance and replacement of the water meter. Each Owner shall cooperate in permitting the City of Whitefish to read the water meter to determine water usage.

## **Section 7-Open Spaces**

**7.1 Use of Open Space For Owners Only:** The Open Space is solely for the common use, benefit and enjoyment of Owners and their families, tenants, employees, guests and invitees and not for the general public.

**7.2 Not Subject to Assessment:** The Open Space is not subject to assessments.

**7.3 No Dedication of Open Space to the Public:** Nothing in this Declaration shall be construed as a dedication to public use, or a grant to any public municipal or quasi-municipal authority or utility, or an assumption of responsibility for the maintenance of any Open Space by such authority or utility, absent an express written agreement to that effect.

## **Article 8-Assessments**

**8.1 Lot Owner Obligation for Assessments:** Lot Owners shall pay to the Association the annual or special assessments against the Lot. Assessments are due upon receipt.

**8.2 Annual Assessments:** In its sole discretion, the Association may fix the amount and due date of the annual assessment at a meeting called for this purpose. At the meeting, Members may

address the Board of Directors.

**8.3 Special Assessments for Capital Improvements:** In addition to the annual assessments, the Association may levy a special assessment applicable to that year for capital improvement costs, so long as a majority of Members attending a meeting called for this purpose vote in favor of the special assessment. At this special assessment meeting, Declarant may cast one vote for each Lot that Declarant owns but may not vote its additional votes granted in Article 3.2 above.

**8.4 Notice for Assessment Meetings:** Written notice for a meeting addressing annual or special assessments shall be sent to Members not less than 30 days nor more than 60 days before the meeting.

**8.5. Uniform Rate of Assessments:** Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected as the Association determines.

**8.6 Nonpayment of Assessments:** An assessment not paid within 30 days after the due date shall bear interest from the due date at 12% per year and late fees as the Association may determine. An assessment, together with late fees, interest, costs and reasonable attorney's fees, shall be a personal responsibility of the Owner who owned the Lot when the assessment became due. The Association may record a lien on the Lot for this amount and file a lawsuit to recover the assessment amount against the Owner and foreclose the lien on the Lot.

**8.7 Subordination of Assessment Lien to First Mortgage:** The assessment lien shall be subordinate to a First Mortgage. A holder of a First Mortgage who obtains title to a Lot pursuant to the remedies provided in the First Mortgage or by deed or assignment in lieu of foreclosure, shall not be liable for a Lot's unpaid assessments that accrue prior to the holder's acquisition of title. Except as provided here, no sale or transfer shall relieve any Lot from assessment liens.

**8.8 Combination and Division of Lots:** If a Lot is formed by the combination of two or more lots, whether informally by use for a single residence or by recorded survey, the resulting Lot or informal combination of Lots shall be subject to the number of annual and special assessments equal to the number of Lots that are combined and shall have the number of votes in Association matters equal to the number of Lots that are combined.

## **Article 9- Rules and Design Review**

**9.1 Rules and Design Review:** Rules and design guidelines are set forth in a separate document called Development Rules and Design Review Guide ("Guide"). The Guide also sets forth the design review process for construction on Lots. Prior to undertaking any work on a Lot, it shall be the responsibility of the Owner to obtain the current Guide from the Association and comply with it.

**9.2 Amendments to Guide:** The Guide shall be amended in the same fashion as this Declaration may be amended as set forth below, except that in lieu of recording a document in the Office of the Flathead County Clerk and Recorder, the amendment itself shall be delivered to all Owners.

**9.3 Guide Incorporated into Declaration:** The Guide and any subsequent amendments are hereby incorporate by reference and shall be fully enforceable as if set forth here. Lot Owners have a duty to obtain the current Guide and be familiar with its contents.

### **Article 10-General Provisions**

**Section 10.1 Proxy Voting:** Members may vote by proxy by providing a signed proxy to the Association prior to the vote.

**Section 10.2 Waiver of Right to Object:** An Owner may not, either directly or indirectly, object or otherwise take action to object, impede or prevent Declarant or other Owners from creating multi-family structures on Lots designated as “multi-family” or developing Lot F consistent with its WRR-1 zoning, including but not limited to constructing condominiums or townhouses.

**Section 10.3 Applicable Law and Forum:** This Declaration shall be construed pursuant to Montana law. The proper forum for legal disputes shall be an appropriate Montana court.

**Section 10.4 Attorney's Fees and Costs:** In the event of a dispute arising from this Declaration, the prevailing party shall be entitled to its costs and reasonable attorney's fees, including fees to enforce this provision.

**Section 10.5 Severability:** If a Court finds any provision of this Declaration to be illegal or unenforceable, such provision shall be severed and shall be inoperative, and the remainder of this Declaration shall remain in full force and effect.

### **Article 11-Amendments and Term**

**Section 11.1 Amendments to Declaration:** This Declaration may be amended as follows:

**11.1.1 Prior to Sale of Lots:** Prior to the sale of any Lots (excluding any sale to a Successor Declarant), Declarant may amend this Declaration by recording the amendment in the Office of the Flathead County Clerk and Recorder.

**11.1.2 After Sale of Lots but During Period of Declarant Control:** After the sale of a Lot (excluding a sale to a Successor Declarant) but before expiration of the Period of Declarant Control, Declarant may amend this Declaration by delivering to Declarant (if Declarant holds additional votes pursuant to Section 3.2 above) and to Members: (a) a ballot; (2) a description of the proposed action; and (c) notice that Declarant and the Members have 30

days from date of mailing to deliver the cast ballot to Declarant. If less than 67% of the cast votes oppose the proposed action, the action shall be considered approved and final. Declarant shall then record the amendment in the Office of the Flathead County Clerk and Recorder, along with a certificate stating this procedure was followed and that the proposed action was opposed by less than 67% of the cast votes.

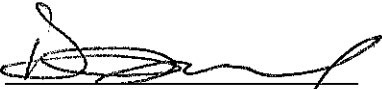
**11.1.3 After the Period of Declarant Control:** After the Period of Declarant Control, the Association or a Member may amend this Declaration by delivering to Declarant (if Declarant holds additional votes pursuant to Section 3.2 above) and to Members: (a) a ballot; (2) a description of the proposed action; and (c) notice that Declarant and the Members have 30 days from date of mailing to deliver the cast ballot to the sender. If at least 67% of the cast votes support the proposed action, the action shall be considered approved and final. The sender shall then record the amendment in the Office of the Flathead County Clerk and Recorder, along with a certificate stating this procedure was followed and that the proposed action was supported by at least 67% of the cast votes.

**Section 11.2 Term of Declaration:** This Declaration shall run with and bind the land for a term of 30 years from the date this Declaration is recorded. Thereafter, this Declaration shall be automatically extended for successive ten year terms, unless a majority vote to terminate the Declaration within 90 days of the end of the term.



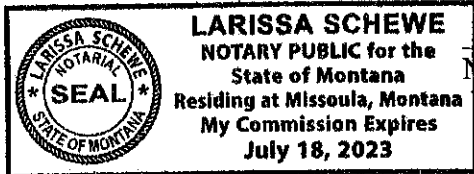
**Declarant:**

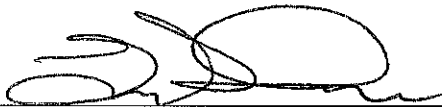
93 LLC

By:   
Heather Wilcox, Manager  
PO Box 16552  
Missoula MT 59808

State of Montana     )  
                                  : ss.  
County of Missoula    )

This instrument was acknowledged before me on March 3, 2022 by Heather Wilcox, Manager of 93 LLC.



  
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Notary Public for Montana